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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/714,143	11/15/2003	James A. Napier	000129-0001	2369
7590 Tony D. Alexander TECHNOLOGY LEGAL COUNSEL LLC P.O. Box 1728 Evans, GA 30809			EXAMINER CHAPMAN, JEANETTE E	
			ART UNIT 3633	PAPER NUMBER
			MAIL DATE 09/22/2009	DELIVERY MODE PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

10/714,143

**Applicant(s)**

NAPIER, JAMES A.

**Examiner**

Jeanette E. Chapman

**Art Unit**

3633

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 18 June 2009.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 76-79 and 97-122 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 76-79, 97-122 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-8508)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 76, 79, 104-105, 108-112, 115-116 are rejected under 35 U.S.C. 102(b) as being anticipated by Leslie (6266927)

Claim 76.

Leslie discloses a tent adapter, comprising:

a flange 22 having a front and a back, at least a portion of the back permanently affixable to a tent;

a boot 19 having first and second ends defining a longitudinally extending aperture there between, the boot affixable at the first end perpendicularly to the flange for affixing a climate control unit 16/18 to a tent, the adapter formed from a material selected from the group consisting of polymer, vinyl, nylon, cotton, leather, or combinations thereof, whereby a user of the tent adapter will have direct access to the climate control unit from within the tent via slit 30.

claim 79.

Leslie discloses the adapter is nylon and nylon-like thus also including the adapter claim 76, wherein the adapter is a ballistic nylon.

claims 104.

Leslie discloses a portable climate control dwelling comprising:

a collapsible structure<sup>10</sup> defining an enclosure, the collapsible structure

Interchangeably transformable between a first storage configuration and a second inhabitable configuration and further having a portion defining a resealable climate control unit receiving aperture 19/22; and

a climate control unit 14, having a front and a back, reversibly attachable with the collapsible structure for use in its second inhabitable configuration such that a user of the collapsible structure has direct access to the front of the climate control unit 14 via slit 30 while inside the Inhabitable configuration of the collapsible structure; whereby the climate control unit 14 conditions the air within the enclosure of the collapsible structure.

claim 105.

Leslie discloses the portable climate control dwelling of claim 104, wherein the air is cooled.

claims 108, 109.

Leslie discloses the portable climate control dwelling of claim 104, wherein the dwelling is formed from a nylon or nylon like material that does not allow the free passage of air. The choice of material for construction is a matter of choice to one of ordinary skill in the art. Certainly, numerous and various plastic and air proof materials are known in the art

claim 110.

Leslie discloses the portable climate control unit carrier of claim 104, wherein the dwelling is formed from a material selected from the group consisting of polymer, vinyl, nylon, cotton, leather, or combinations thereof.

claim 111.

Leslie discloses the portable climate control unit carrier of claim 110, wherein the dwelling is nylon or nylon-like thus also including a ballistic nylon.

claim 112.

Leslie discloses a tent adaptor, comprising:

a flange 22 having a front and a back, at least a portion of the back permanently affixable to a tent 10;

a boot 19 having first and second ends defining a longitudinally extending aperture there between, the boot 19 affixable at the first end perpendicularly to the flange for affixing a climate control unit 14 to a tent.

claim 115.

Leslie discloses the adaptor of claim 112, wherein the adaptor is formed from a material selected from the group consisting of polymer, vinyl, nylon, cotton, leather, or combinations thereof.

claim 116.

Leslie discloses the adapter claim 115, wherein the adapter is a nylon or nylon-like material thus also including ballistic nylon.

**35 USC 103**

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all respective obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 77-78, 97-98, 100-103, 107, 113-114, 117-120 and 122 are rejected under 35 U.S.C. 103(a) as being unpatentable over Leslie in view of Bishop  
Claims 77-78.

Leslie lacks the adapter of claim 76, wherein the second end of the boot has an elastic edge or a closure for closing the aperture at the second end. Bishop discloses the second end of the boot with a closure end; the type of closure is a matter of choice not critical to the essence of the overall invention. One of ordinary skill in the art would have appreciated the known and adaptable closure. means known in the art such as drawstring or elastic. It would have been obvious to one of ordinary skill in the art to modify Leslie to include the boot with a closure end to accommodate various sizes of climate control units  
claim 97.

Leslie discloses a tent defining an enclosure, a support member 21 capable

of supporting the enclosure in an Inhabitable configuration, the tent interchangeably transformable between a storage configuration and the inhabitable configuration, the improvement comprising;

a boot 19 having first and second ends defining a longitudinally extending aperture there between, the boot affixable at the first end perpendicularly to the flange 22 for affixing a climate control unit to the tent 14; and

a climate control unit 14 reversibly disposed at least partially within the boot for use in the second Inhabitable configuration of the tent:

the tent formed from a material that does not allow the free passage of air

but not through multiple layers of the fabric thereof (this limitation is not necessary being that the material does not allow the free passage of air)

Leslie discloses whereby a user of the tent has direct access to the climate control unit 14 through slit 30 the climate control unit conditions the air within the enclosure of the tent, but not such that the retention of the predetermined shape of the second Inhabitable configuration is independent of the climate control unit as shown by Bishop. It would have been obvious to one of ordinary skill in the art to modify Leslie to include the means to provide the inhabitable configuration independent of climate control unit as shown by Bishop to employ the tent when the climate control unit is broken or its use is not desired

claim 98.

Leslie discloses the tent of claim 97 wherein the air is cooled.

claims 100, 102.

Leslie lacks the tent of claim 97, wherein the tent defining the climate control unit-receiving aperture comprises an elastic member or straps for engaging the climate control unit but includes forming a weather resistant barrier between the exterior and interior of the dwelling.

Leslie lacks the adapter of claim 76, wherein the second end of the boot has an elastic edge or a closure for closing the aperture at the second end. Bishop discloses the second end of the boot with a closure end; the type of closure is a matter of choice not critical to the essence of the overall invention. One of ordinary skill in the art would have appreciated the known and adaptable closure means known in the art such as straps, drawstring or elastic. It would have been obvious to one of ordinary skill in the art to modify Leslie to include the boot with a closure end to accommodate various sizes of climate control units

claims 101-103.

Leslie discloses the tent of claim 100, wherein the dwelling is nylon or nylon-like which includes ballistic nylon.

Claim 107.

Leslie lacks the portable climate control dwelling of claim 104, wherein the collapsible structure defining the climate control unit receiving aperture comprises an elastic member for engaging the climate control unit; Leslie discloses forming a weather resistant barrier between the exterior and interior of the dwelling. Leslie lacks the adapter of claim 76, wherein the second end of the boot has an elastic edge or a



closure for closing the aperture at the second end. Bishop discloses the second end of the boot with a closure end; the type of closure is a matter of choice not critical to the essence of the overall invention. One of ordinary skill in the art would have appreciated the known and adaptable closure. means known in the art such as straps, drawstring or elastic. It would have been obvious to one of ordinary skill in the art to modify leslie to include the boot with a closure end to accommodate various sizes of climate control units.

claims 113-114

Leslie lacks the adapter of claim 76, wherein the second end of the boot has an elastic edge or a closure for closing the aperture at the second end. Bishop discloses the second end of the boot with a closure end; the type of closure is a matter of choice not critical to the essence of the overall invention. One of ordinary skill in the art would have appreciated the known and adaptable closure. means known in the art such as drawstring or elastic. It would have been obvious to one of ordinary skill in the art to modify leslie to include the boot with a closure end to accommodate various sizes of climate control units

claim 117.

Leslie discloses a kit comprising a collapsible structure defining a moisture impermeable enclosure, the collapsible structure interchangeably transformable between a first storage configuration and a second inhabitable configuration and further having a portion defining a pliant, resealable climate control unit-receiving aperture adjacent 19/22, but lacks said second inhabitable configuration may be established and/or

retained at the predetermined shape in the absence or presence of a climate control unit. See above. It would have been obvious to one of ordinary skill in the art to modify Leslie to include the means to provide the inhabitable configuration independent of climate control unit as shown by Bishop to employ the tent when the climate control unit is broken or its use is not desired.

claim 118.

Leslie discloses the kit of claim 117, further comprising a climate control unit 14.

Claim 119:

Leslie discloses a climate control unit carrier 19/22/21

Claim 120

Leslie discloses the climate unit is an air conditioner

claims 122

Leslie discloses the kit of claim 117 further comprising a stand 21 for holding a control unit at a predetermined distance in relation to the dwelling. To make something adjustable according to the size of the unit requires only routine skill in the art.

Claims 99, 106 are rejected under 35 U.S.C. 103(a) as being unpatentable over Leslie in view of Laiti.

claim 99.

Leslie lacks the tent of claim 97, wherein the air is heated. Climate control are manufactured to produce warm and cold air from a single unit; this fact is commonly and well known in the art today. Laiti teaches an environmental control unit which may be an air conditioner or an air(heat) pump; air (heat) pumps are commonly known to

produce warm and cold air. It would have been obvious to one of ordinary skill in the art to modify Leslie to include the climate control unit producing hot or cold air in order to provide a comfortable environment for the housing when employed in various weather conditions.

claim 106.

Leslie lacks the tent of claim 97, wherein the air is heated. Climate control are manufactured to produce warm and cold air from a single unit; this fact is commonly and well known in the art today. Laiti teaches an environmental control unit which may be an air conditioner or an air(heat) pump; air (heat) pumps are commonly known to produce warm and cold air. It would have been obvious to one of ordinary skill in the art to modify Leslie to include the climate control unit producing hot or cold air in order to provide a comfortable environment for the housing when employed in various weather conditions.

Claim 121 are rejected under 35 U.S.C. 103(a) as being unpatentable over Leslie in view of Bishop as applied to claim 117 and further in view of Laiti.

leslie lacks the climate control unit of a heater . Laiti teaches an environmental control unit which may be an air conditioner or an air(heat) pump; air (heat) pumps are commonly known to produce warm and cold air. It would have been obvious to one of ordinary skill in the art to modify Leslie to include the climate control unit producing hot or cold air in order to provide a comfortable environment for the housing when employed in various weather conditions.

Applicant's arguments are moot in view of the new ground of rejection.

***Conclusion***

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jeanette E. Chapman whose telephone number is 571-272-6841. The examiner can normally be reached on Mon.-thursday, 8:30-6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Richard Chilcot can be reached on 571-272-6777. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Jeanette E Chapman/  
Primary Examiner, Art Unit 3633